

DOCKET NO: 279307US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
XU HE, ET AL. : EXAMINER: EGWIM, K. C.
SERIAL NO: 10/553,793 :
FILED: OCTOBER 18, 2005 : GROUP ART UNIT: 1796
FOR: POLYMER DISPERSION WITH A :
COLOUR EFFECT

PETITION TO ENTER AMENDMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants respectfully petition for entry of the amendment filed June 22, 2009
(Amendment).

BACKGROUND

Applicants filed a petition under 37 CFR §§ 1.181 and 1.183 on May 21, 2009,
petitioning from the Examiner's withdrawal of Claims 11-16, 21 and 25 from consideration
in a first Final Rejection dated April 16, 2009.

Applicants then filed the Amendment in reply to the Final Rejection. In an Advisory
Action entered July 8, 2009, the Amendment was refused entry.

In a decision on petition entered August 3, 2009, the petition was granted. The
decision directed the Examiner "to issue a new office action incorporating the claims that
were withdrawn from consideration. If upon consideration, the Examiner feels that a lack of
unity of invention exists with the newly-amended claims, the Examiner should clearly

demonstrate this in the new office action and may then consider withdrawing the claims from consideration.”

In a second Final Rejection entered October 23, 2009, the Examiner, *inter alia*, repeated a rejection under 35 U.S.C. § 112, first paragraph which could not have been made had the Amendment been entered. Thus, while the record is not explicitly clear, it appears that the decision on petition did not cause the Amendment to be entered.

ARGUMENT

Since the decision on petition directed the Examiner to enter a new Office Action, the decision on petition should have had the effect of causing the finality of the first Final Rejection to be withdrawn. Such withdrawal would necessarily have the effect of entry of the Amendment. Accordingly, it is respectfully requested that the Amendment be entered for purposes of appeal.

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Respectfully submitted,

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